

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

- against -

MARTIN SHKRELI,

Defendant.

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DECLARATION
IN SUPPORT OF MOTION
PURSUANT TO 28 U.S.C. § 2044

Criminal Docket No. CR-15-0637
(Matsumoto, J.)

The United States, by its attorney, Richard P. Donoghue, United States Attorney for the Eastern District of New York, by Peter A. Laserna, Assistant United States Attorney, of counsel, respectfully petitions the Court, pursuant to 28 U.S.C. § 2044, for the entry of an order directing E*TRADE Securities LLC to pay over a portion of funds currently being held by order of the Court and apply that amount to the outstanding fine and restitution judgment imposed by the Court against the defendant Martin Shkreli (the “defendant”), and in support hereof, states as follows:

1. I am an Assistant United States Attorney, of counsel to Richard P. Donoghue, United States Attorney, Eastern District of New York, attorney for the United States, for the purposes of collecting a criminal judgment debt, and, in that capacity, am familiar with the facts set forth herein.

2. On or about January 7, 2016, the Court issued a Restraining Order against a brokerage account belonging to the defendant, held at E*TRADE Securities LLC and ending in digits “0258” (the “E*Trade Account”), for the purposes of securing the defendant’s \$5 million bond in connection with the above-captioned matter. Docket Entry (“DE”) 19. The

Restraining Order was issued upon the United States' application, with the defendant's consent.

3. On or about July 28, 2016, the Court issued a modification of the Restraining Order, permitting the defendant to sell shares of KaloBios stock. DE 73. On or about October 25, 2016, the Court issued a further modification of the Restraining Order, allowing the defendant to transfer \$944,959.41 from the E*Trade Account to the Internal Revenue Service in order to make a partial payment toward his income tax obligations. DE 102. Accordingly, the E*Trade Account currently contains approximately \$5 million.

4. By the Judgment, imposed on March 9, 2018, the defendant was convicted of securities fraud, pursuant to 15 U.S.C. §§ 78j(b), 78ff, and conspiracy to commit securities fraud, pursuant to 18 U.S.C. § 371, and sentenced, among other things, to pay an assessment of \$300.00 and a fine of \$75,000.00. The amount of restitution had not yet been determined at the time the Judgment was imposed.

5. On April 9, 2018, the Court issued a Restitution Order, pursuant to the Mandatory Victims Restitution Act, 18 U.S.C. § 3663A *et seq.* Pursuant to the Court's Restitution Order, the judgment imposed against the defendant was amended to include an imposition of restitution in the amount of \$388,336.49, due and payable immediately.

6. As set forth in the Court's Amended Judgment, entered on the docket on April 17, 2018, "Payment of [the] \$75,000 fine, \$300 special assessment and \$388,336.49 restitution [are] due and payable immediately." *See* DE 583, p. 7.

7. As of June 12, 2018, the outstanding balance for the restitution and fine imposed against defendant, with interest, is \$464,894.13. The assessment has been satisfied.

8. Pursuant to 28 U.S.C. § 2044, the court shall -

[o]n motion of the United States attorney, . . . order any money belonging to and deposited by or on behalf of the defendant with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution, or penalty imposed on the defendant.

9. Based on the foregoing, the money currently being held by order of the Court should be applied to the outstanding fine and restitution judgment imposed against the defendant.

WHEREFORE, the United States respectfully requests that the Court issue an order directing E*TRADE Securities LLC to withdraw \$464,894.13 from the E*Trade Account and issue a check in that amount to the Clerk of Court, for application to the outstanding fine and restitution judgment imposed against the defendant Martin Shkreli. Further, the United States respectfully requests that the Court include in its order a directive that E*TRADE Securities LLC, if necessary, liquidate as much of the E*Trade Account as required to effectuate the withdrawal of \$464,894.13 from the E*Trade Account.

Dated: Brooklyn, New York
June 12, 2018

/s/
PETER A. LASERNA
Assistant United States Attorney
(718) 254-6152

To: Martin Shkreli (*Defendant*)
Reg. No. 87850-053
FCI Fort Dix
Federal Correctional Institution
Satellite Camp
P.O. BOX 2000
Joint Base MDL, New Jersey 08640